
LICENSE INCOME DISTRIBUTION POLICY CLARIFICATION
Effective October 1, 2003

A listing of Terms and their Definitions is given on page 3.

- SUMMARY:** **.01** The University of California (University) has policies for sharing with Laboratory Innovators revenues derived from the licensing of Laboratory Intellectual Properties. University employees and Eligible Contract Employees are eligible for such income distribution if they are employed by the University at the time they (1) conceived the Invention, or first reduced the Invention to practice, (2) authored the software or other Copyrighted Work, or (3) created the Mask Work.
- SCOPE:** **.02** This Income Distribution Policy pertains to Licenses which are executed by the Laboratory on behalf of the University. **This policy is applicable to University Employees and Eligible Contract Employees only.**
- DISTRIBUTION POLICY:**
- Timing** **.03** Payments to Innovators for each fiscal year will be made annually to the Innovators, or their heirs, successors or assigns in February of the following fiscal year.
- Distribution of Net Income** **.04** Distribution of Net Income from licensing Laboratory intellectual property is governed by University policy. As of the date of this document, distribution is determined by the Innovator's hire date as shown in Table 1. However, as conditions require, the University may change its policy for distributing license revenues.
- Distribution When There Is More Than One Innovator** **.05** Co-Innovators will share the Innovator's Portion equally. Co-Innovators who wish to distribute income in other than equal shares must establish a legal entity to receive and distribute license income.

Table 1: Distribution of Net Income

Hire Date Before 10/1/97	Hire Date On or After 10/1/97
42.5% Innovator's Portion	35% Innovator's Portion
42.5% Laboratory's Portion	65% Laboratory's Portion
15% Allocated for technology transfer activities	<ul style="list-style-type: none"> • 15% — Allocated to Division for use in R&D • 70% — Allocated to Division for use in R&D, education, and technology transfer • 15% — Allocated for technology transfer activities

Exemptions from Distribution to Innovators	.06	Net Income generated from a license that loans equipment or material will be entirely retained by the Laboratory and distributed in a prorated manner in accordance with the Laboratory Portion shown in Table 1.
Distribution When There Is a Co-Licenser	.07	When ownership of Licensed Property is shared with a third party and the University and third party have entered into an agreement under which the University will be responsible for licensing activities, distribution of license income to the Co-Licenser will be in accord with the terms of that agreement. The terms of such agreements will be honored prior to the application of this policy.
Withholding Distribution to Innovators	.08	<p>The Laboratory is required by the Prime Contract to deposit source code and related information of software with the Energy Science and Technology Software Center (ESTSC). Payments to the responsible Innovator(s) will be withheld until deposit is complete.</p> <p>In the event of any actual or imminent litigation or of any other action to protect patent rights or copyrights, payments to Innovator(s) of those patents or copyrights may be withheld until such matter is resolved.</p>
Restrictions on Divisions' Use of License Income	.09	In accord with the Prime Contract, the Laboratory Portion may only be used by the Divisions for scientific research, development, technology transfer, and education at the Laboratory, and may not be used to augment federally funded activities or programs. The Divisions will be accountable for how the funds are used by their organizations.

**Distribution of Excess
Laboratory Portion**

- .10** If total Laboratory Portion of licensing income for a fiscal year exceeds five percent (5%) of the Laboratory's annual operating budget for that fiscal year, the Laboratory will remit seventy-five percent (75%) of such excess amounts to the Treasury of the United States.

**REPORTING
REQUIREMENTS:**

Reporting by Divisions

- .11** Each Division is required to submit an annual report, due January 1 following the September 30 end of the fiscal year, indicating how the Division's share of licensing income was used, including the dollar amount used for each of the following activities:
- Technology Transfer
 - Education
 - Research

Divisions will receive their Laboratory Portion only *after* their annual report has been received by the Office of Technology Transfer.

**POLICY
MODIFICATIONS:**

- .12** Change to this policy may be required due to changes in the University license income distribution policy or in the Prime Contract between the University, or its successors, and the Department of Energy.

DEFINITIONS:

Authors

- .13** Individuals who fix a Copyrighted Work in a tangible medium as determined by U.S. Copyright Law. For example, Authors of software are those individuals who actually generate lines of code that are "fixed" in a medium such as a floppy disk. Therefore, authorship would not include those individuals who were instrumental in only the design or planning of the completed code.

Co-Licenser

- .14** Non-University entities who are co-owners of Licensed Property and therefore have an interest in license income.

Copyrighted Work

- .15** Original work of authorship in which the expression of an idea is recorded or "fixed" in a tangible medium. Copyright protection covers the expression of the idea and not the underlying idea itself. Copyrighted Works include software codes, drawings, and the internal working configuration of databases, etc.

Creator	.16	Individual who creates the Mask Work(s) as determined by U.S. Copyright Law.
Division	.17	<p>The organizational division that managed the Innovator at the time the Intellectual Property was created. If there are multiple Innovators from different divisions, then each of these divisions will share in the Laboratory Portion proportionally.</p> <p>If the relevant Division is reorganized into another division, then the new incorporating division will be considered the responsible Division.</p>
Direct Expenses	.18	Expenses incurred in obtaining patent rights and in licensing an Innovation, including, but not limited to, costs of U.S. and foreign patent filing, prosecution, and maintenance; Technical Assistance; license audits; overdue payment collection; patent/copyright infringement and interference litigation; marketing; materials; and other related costs.
Eligible Contract Employees	.19	Laboratory contract employees whose employment agreement with the Laboratory or their subcontract employer permits them to share in license income received for Intellectual Property they helped conceive.
Foreign Filing Costs	.20	Costs incurred for any activity related to foreign patent protection and maintenance. These costs may include, but are not limited to, such items as external patent agent fees, translation fees, and actual filing fees.
Gross Income	.21	All revenue that is received in a given fiscal year and which results from a License of Intellectual Property. These revenues include but are not limited to fees, royalties, interest payments, maintenance fees, and reimbursements for Direct Expenses.
Innovator	.22	The Inventor, Author, or Creator of Licensed Property who was employed by the University or a University contractor at the time that he/she (1) conceived the Invention or first reduced it to practice, (2) authored the software or other Copyrighted Work, or (3) created the Mask Work.
Intellectual Property	.23	Inventions, Copyrighted Works, and Mask Works.
Inventor	.24	Individual who has contributed to the conception and reduction to practice of an Invention, as determined by U.S. Patent Law.

Invention	.25	A new and useful process, machine, manufacture, or composition of matter, or improvement thereof, as determined by U.S. Patent Law.
License	.26	A contractual agreement under which rights in Intellectual Property are granted by the owner of the Intellectual Property (the Licensor) to another party (the Licensee).
Licensed Property	.27	Intellectual Property that is owned in whole or in part by the University and for which these rights have been granted to another party under a License.
Mask Work	.28	A series of related images that represent the pattern formed on a semiconductor chip in accordance with U.S. Copyright Law.
Net License Income	.29	Gross (License) Income less Direct (License) Expenses
Technical Assistance Cost	.30	Payments made by Licensee for technical assistance provided by Laboratory staff under the terms of the License that are treated as direct expenses.
Prime Contract	.31	The contract between the Department of Energy and the University to operate Los Alamos National Laboratory.